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enlightened sympathy and all the qualities that go with these seem to be rather matters of the heart than of the mind, a moral product and not something that can be engendered by a course in pot-boiling or stenography or smothered by a study of Greek and Latin. Nor indeed will an investigation of the rise and progress of the democratic ideal reveal aught of which the classicist need feel ashamed. More than one paladin of popular liberty has owed a debt of inspiration to Greece and Rome, and study of those ancient civilizations is still calculated to free the mind from what is superficial, petty, transitory and biased much more than some of the substitutes which have been and are proposed.

Vocational training in its place, playing the rôle, as all elements of education should, of public servant and not of tyrant, deserves the heartiest welcome. If, however, Demos is to have the kratos, then a goodly number of those it elects as rulers should have some first hand knowledge of those nations who founded the civilization of all Western Europe. Visions of the future must be clarified by visions of the past. Our leaders must be those who can profit by the mistakes of millenia of men and not merely stumble stupidly in the present, as so many, groping blindly for a social panacea, do. Surely no one can be a trusty statesman who has not added the best human culture to any mere business efficiency. We need more men like Pericles in our legislatures and fewer Cleons, even though the latter be the better 'mixers'.

We do not happen to know any classical teacher who believes that Greek and Latin should be a universal study, but some of us suspect that even a year's trial of it in the High School has never ruined anybody, not even the future clerk or artisan, whom some seem so anxious to protect against its inutilities and its social corruption. Certainly, considerations of poverty or of the parents' occupations and a premature divination of what a pupil is going to be by those whom God has not unmistakably called to seership should not be the final factors to commit American youth to a predominantly vocational education. They should not, even were there no masters of industry who are actually urging the choice of liberal studies for their future employees and giving public warning that the trade-trained boy has to unlearn much of the technique he acquired in the vocational school so soon as he begins employment in a shop.

Fortunately boys from the humblest cultural environment and burdened with the severest financial handicap do reach our freshmen College classes, and with the training in which we classicists believe graduate to assume positions in society which no mastery of the hand alone nor of the almighty dollar itself can ever guarantee. If thereby their association with certain of their fellowmen has become less easy or satisfying, that fact carries with it no implication of snobbery, no un-Americanism. Least of all can such a charge be specified against the Classics. Every sort of mental or for that matter manual improvement must cause a degree of social separation. Let us, moreover, not forget that it takes two to mix just as it takes two to 'make a stare'. Could it not sometimes be that it is the other party to the mixture and not the classicist who is responsible for the failure in a social blend?

Finally, in order to establish a charge of exclusiveness in its full enormity against teachers of Greek and Latin it would be well to show that they are the ones who bar young America from opportunity to pursue those or any other liberal subjects for which the mental capacity exists. Are they? W. B. McD.

ROMAN LAW IN THE ENGLISH UNIVERSITIES

There are many purposes for which Roman law may be studied, and there is a corresponding variety in the schemes of instruction developed in different countries. From the point of view of the modern jurist, the chief practical importance of Roman law lies in its solution of problems which are neither ancient nor modern, because they are persistent, recurring in every highly developed civilization. To a degree, the Roman method of dealing with public law problems is of permanent significance, but a higher value attaches to the Roman solution of problems of private rights and obligations. In this field, the experience and reflection of the ancient world, as summed up in the Roman jurisprudence of the early Empire, have at least as high a value for us to-day as the results reached by the Greeks in philosophy and in art or by the Jews in the field of religion.

Less easily measurable but perhaps not intrinsically inferior is the importance of Roman law for the study of legal evolution. For such study the jurisprudence of the Roman Empire is less important than the development of the Roman city law, from its crude beginnings in the so-called Royal Laws and in the Twelve Tables. For the student of any phase of social evolution the beginnings are of the highest interest; and such an archaic and singular institution as the Roman *usucapio pro herede* is more significant than a discussion in the auditorium of Papinian of the liability of a principal for the acts of an agent.

When the study of Justinian's law books was revived in North Italian and South French law schools in the eleventh century, and, when in the twelfth and following centuries Roman civil law became, not only on the Continent but also in England, a recognized branch of University instruction, the prime purpose of this study and instruction was thoroughly practical. The rapid development of commerce and the increasing importance of movable property raised questions which neither local custom nor feudal nor ecclesiastical law could answer. Where, as was generally the case on the Continent, national organs for the development of new law by decisions or by legislation were not yet in effective operation, recourse was had to Roman law; and by the close of the Middle Ages the Corpus Juris Civilis was 'received' as subsidiary law, citable and

applicable in the courts of justice. With this 'reception' Roman law became a necessary part of Continental legal training; and the case law preserved in Justinian's Digest became as important as English case law is to-day in English and American law schools. As in the law schools of the Roman Empire, the student began with a course of 'Institutes'; and for this purpose the Institutes of Justinian were employed, supplemented in the nineteenth century by the earlier Institutes of Gaius. Since, however, the Institutes of Gaius and those of Justinian were constructed to meet the needs respectively of the second and sixth centuries and included, with much of permanent value, much that was solely of contemporary importance, Continental lecturers and writers gradually worked out Institutes adapted to modern conditions. They undertook to set forth pure Roman law and to ignore medieval and modern changes, relegating the latter to more advanced courses and text-books (Pandects), but in these modern Institutes not only the choice of topics but also the order and method of treatment were largely determined by modern conditions and interests.

With the general enactment of civil codes in the nineteenth century, Roman law has lost its immediate authority in Continental litigation, but it has not ceased to form a part of Continental legal education. The course in Institutes everywhere holds its own. In the period immediately following codification in each country, the more detailed study of Roman law was naturally replaced, to a greater or less extent, by the study of the national civil code. That was the case in France in the early part of the nineteenth century and is the case to-day in Germany. It appears, however, that, when the problems presented by a new civil code are thoroughly mastered in practice and in teaching, the advanced study of Roman law tends to come to its own again, as to-day in the French 'second year' of Roman law.

In England, by reason of the earlier consolidation of royal power, national organs for the development of the custom of the realm took form in the twelfth and thirteenth centuries; and, while frequent recourse was had to Roman law for aid in solving problems new to the royal courts, such recourse was seldom acknowledged and the law books of Justinian were not 'received'. As the English Universities did not undertake to give instruction in English law, the training of practitioners in this field fell to the Inns of Court. As late as the early decades of the nineteenth century, however, the University study of Roman law, civil as well as canon, was of direct value to a small body of intending practitioners, because the law merchant and the ecclesiastical law were not parts of the English common law and were not taught in the Inns of Court. These branches of law were in fact not English but European. Until the close of the Middle Ages the common-law courts took no jurisdiction of commercial cases; and even in the nineteenth century maritime law was administered in a special Court of Admiralty. Matrimonial and testamentary cases were dealt with in separate ecclesiastical courts through the first third of the nineteenth century. Practice in admiralty, probate and divorce cases was consequently a special branch of legal activity. The importance of the study of Roman law for practitioners in these fields and the value for them of University degrees in civil and canon law are indicated by the facts that the practitioners were long described as 'civilians' and that their habitat, which was distinct from the Inns of Court, was known as 'Doctors' Commons'.

Long before the nineteenth century, however, this line of connection between University instruction in Roman law and practice in the courts was weakened by the development of what we Americans call 'office training'. Young men who wished to practice in the ecclesiastical courts or in the Court of Admiralty, like those who wished to practice in the common law courts, read under the direction of older lawyers. In the nineteenth century comparatively few members even of this branch of the legal profession had studied Roman law at the Universities.

The teaching of Roman law at the Universities accordingly lacked in England that connection with contemporary life which it enjoyed upon the Continent. Under these circumstances, there was no such development as that which produced new Institutes on the Continent. What was more serious, Roman law was treated, practically, as a branch of Roman archaeology, with little or no distinction between matters of permanent significance and those which were of accidental importance in the second and sixth centuries. The modern requirement of some knowledge of Roman law for admission to the English bar has thus far brought about no change; for the examiners can not well demand any knowledge that can not be acquired at the Universities, and their papers conform to the University standards. The bar examinations in Roman law are based upon the Institutes of Gaius and Justinian; and the 'cram books' indicate that a candidate is as liable to be questioned about the Latini Juniani as about the law of sales.

The establishment at the Universities of what we should call pre-professional law courses, the opportunity given to candidates for the bachelor's degree to devote two of their three years of residence to legal studies, and the increasing tendency to make some of the University courses in law distinctly professional are reëstablishing the desirable connection between University study and the practice of the law. These changes, however, have not yet appreciably modified English University instruction in Roman law. It is still based on the Institutes of Gaius and of Justinian. It does not stop, indeed, with the study of these texts; further information is given about the matters of which they treat, and some information is added about matters which they omit. All this teaching, however, and the literature which it has produced may fairly be described as notes on the Institutes.

Of the incomparably more valuable matter contained in the Digest of Justinian some use is made in the lectures and books on the Institutes. What is more important, the course in Institutes is followed by the reading of selected titles from the Digest, and the titles chosen are usually those which deal with the most valuable parts of the Roman law, contracts and movable property. This further study has produced some good monographs.

Of the English books dealing with the Institutes of Justinian one of the best is Moyle's (Clarendon Press), which gives the text "with Introduction, Commentary and Excursus". Roby's Roman Private Law in the Time of Cicero and the Antonines (Cambridge University Press) is essentially a commentary on the Institutes of Gaius. One of the most recent English publications on Roman law, W. W. Buckland's Elementary Principles of the Roman Private Law (Cambridge University Press, 1912) is substantially similar in arrangement and in treatment. Mr. Buckland's title is somewhat misleading, for his book presupposes acquaintance with the Institutes of Gaius and Justinian and with the elementary principles therein set forth, and many of his excursuses go beyond the elements. None of these books, however, nor any English book, gives so clear, so accurate and so complete a view of Roman private law as Girard's Manuel de Droit Romain.

For the classical student, such English and French books are perhaps more useful than the German works on Institutes, in which Roman law is treated as a line of approach to modern law. Even for the classical student, however, if he wishes to appreciate the importance of the Roman contribution to modern law, it may be of advantage to read one of these German introductory works. Fortunately one of the best, Rudolph Sohm's Institutes, has been excellently translated by J. C. Ledlie and has deservedly reached a third English edition (Clarendon Press, 1907). Sheldon Amos, in his Roman Civil Law (Kegan, Paul, Trench and Company), undertakes to treat the Roman law from this point of view. In his Preface he asserts that "where forced to select among rival illustrative topics, I have brought into relief all that has specially affected . . . European civilization". Unluckily the execution of the plan is inferior to its conception.

As it is impossible to understand Roman private law without some knowledge of Roman forms of procedure, it is fortunate that we have in English so excellent a book as Greenidge's The Legal Procedure of Cicero's Time (Clarendon Press). And even in the most cursory notice of the English books on Roman law, Muirhead's Historical Introduction to the Private Law of Rome (revised and edited by Goudy; A. and C. Black) should not be passed over. It is the only good history of Roman Law in English, and it compares favorably with most of the continental histories. There is nothing, however, in English that is so readable as Padeletti's Storia del Diritto Romano, or so exhaustive as Karlowa's monumental Römische Rechtsgeschichte. Nor have we in English any such glossary of Roman law terms as Heumann's Lexikon. The standard Latin-English dictionaries are lamentably inadequate. In Germany, however, Heumann's Lexicon is about to be antiquated by the Vocabularium Jurisprudentiae Romanae prepared under the auspices of the Savigny Foundation and in process of publication by Reimer (Berlin).

COLUMBIA UNIVERSITY. MUNROE SMITH.

REVIEWS

Prohistorike Archaiologia. By P. Kabbadias. Athens: Press of Paraskeya Leone (1914). Pp. 879. 820 illustrations in the text. 30 Francs.

This is an ambitious work on Greek excavations written in modern Greek by a distinguished Greek scholar and published in Athens. It demands attention by its title and its magnitude, and holds the reader's interest by the importance of its content. Nothing less than a comprehensive survey of the whole field of prehistoric archaeology is the aim of the author; his result includes also a sketch of geology, in the Introduction to the book, and a study of comparative alphabets and systems of writing, in the Appendix. Indeed the range of subjects discussed or mentioned in the book is at first appalling, until it becomes apparent that the kernel of the matter is prehistoric archaeology in Greece; all else is introductory to that theme or is derived therefrom.

The broad scope of treatment may be indicated by a statement of the captions of the six chapters into which the work is divided: Introduction (7–13), statement and outline of the geological periods; Chapter 1 (17–28), general view of prehistoric archaeology; Chapter 2 (29–147), prehistoric archaeology in Europe; Chapters 3, 4, 5 (148–752), prehistoric archaeology in Greece, subdivided into 3, excavations and finds, 4, epochs and chronology, 5, art and civilization; Chapter 6 (753–811), prehistoric archaeology in Anatolia; Appendix (812–858), systems of writing.

In the first chapter the author gives a brief historical account of the development of the science of prehistoric archaeology from the occasional stone implements of prehistoric man, known by the ancient Greeks and Romans, to the firm basis of study furnished by the discovery of the Swiss lake dwellings in 1854, and the finding of the caves in France. The development of man, as now revealed to us through this science, is divided into two periods, the stone age and the metal age, with their respective subdivisions. Archaeology that deals with the stone age is prehistoric, while, says Mr. Kabbadias, the period which begins with the use of metals and continues to historical times should rather be called protohistoric. In Greece the bronze age is mainly protohistoric, whereas in Europe it is almost wholly prehistoric, and there protohistory begins only with the appearance of iron.